IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.MC.No. 4844 of 2003(A)

CC.50/2003 of JDUL.MAGISTRATE OF FIRST CLASS, RAMANKARY

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PETITIONER:

1. GOPAKUMAR, S/O.AYYAPPAN NAIR,
   VALLIYAMUKKADU HOUSE, VYSYAM BHAGAM, NOW RESIDING AT SAI KRISHNA, NEAR.TELEPHONE EXCHANGE, KAITHAVANA, PAZHAYAVEEDU VILLAGE.

2. SIVAN PILLAI T.R., AGED38,
   BHAGEERATHI BHAVANANM, VYSYAM BHAGAM, NEDUMUDI PANCHAYATH, WARD NO.11.

3. VINAYAKUMAR, S/O.NARAYANAN NAIR,
   AGED 39, KOCHUMUKKADU VEEDU, VYSYAM BHAGOM, WARD NO.11.

4. LEELAMMA, W/O.NARAYANAN NAIR,
   AGED 73, KOCHUMUKKADU HOUSE, VYSYAM BHAGOM, WARD NO.11.

5. KANNAN @ DEVADAS, AGED 30,
   S/O.GOPALAKRISHNAN, CHIRAKKAL GOKULAM, VYSYAM BHAGAM, NEDUMUDI PANCYAHTH, WARD NO.11.

6. GOPALAKRISHNAN, S/O.RAMAN NAIR,
   AGED 45, PPADMAVUILASOM VYSYAM BHAGAM, NEDUMUDI PANCHAYATH, WARD NO.11.

7. PRAKASH, S/O.RAGHAVAN, AGED 37 YEARS,
   PUTHURANA,. VYSYAM BHAGOM, NOW RESIDING AT ALEZHAM VYSYAM BHAGOM.

BY ADV. SRI.GOVIND K.BHARATHAN

RESPONDENTS:
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1. STATE OF KERALA REP. BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   KOCHI - 31.

2. ANTONY, S/O.JOSEPH, THOTTUKKADAVU VEEDU,
   VYSYAM BHAGAM, NEDUMUDI PANCHYATH,
   WARD NO.11, ALAPPUZHA.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR
SRI.K.A.SALIL NARAYANAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.4844 of 2003

DATED THIS THE 22nd DAY OF NOVEMBER 2006

ORDER

The petitioners, who are the accused in C.C.No.50/2003 in the file of the Judicial First Class Magistrate Court, Ramankary,Alappuzha with respect to the offences under Sections 143,147,148,149, 379 and 506(ii) of the Indian Penal Code, have sought for getting quashed the above proceedings alleging that the same is false and fabricated and that the same amounted to an abuse of process of the court. It is submitted that the petitioners are the members of the same family and the 4th petitioner is aged 73 and she is the wife of the cousin of the first petitioner's father. The above complaint was directly taken cognizance of by the court vide C.C.No.50/2003, a copy of which has been produced as Annexure-I . The allegation in the complaint is that the make shift shop was constructed by the handicapped son of the 2nd respondent/complainant about three years back making use of wooden planks and tiles and that he was to run a stationary shop therein. According to the second respondent, on 11-11-2002, the shop was forcibly demolished and the second respondent was threatened that he will be done away with. It is his case that a loss to the tune of Rs.15,000/- has been caused.

2. It is the case of the petitioners that in fact the above `C' class shop was constructed on JRY road near the Government L.P.School in September 2002 only and the same extended to the property belonging to the first petitioner also. Immediately the first petitioner preferred a complaint to the Sub Inspector of Police and the President of the Nedumudi Grama Panchayat. The 2nd respondent was called to the police station and he has agreed to remove the shop on or before 24-9-2002 and the same has been endorsed on the complaint filed by the first petitioner. Thereafter, the Panchayat held a meeting and resolved that the above shop would hinder the development of the Panchayat road and the same is to be removed vide Annexure-II resolution. Consequently a notice was sent by the Secretary of the Panchayat through the second respondent to show cause as to why the shop shall not be removed. Copy of the said resolution is Annexure-III. The Panchayat requested the Sub Inspector of Police to take suitable action in pursuance of the above resolution and to afford police protection to remove the shop. Copy of the above letter dated 31-10-2002 is Annexure-IV. On 11-11-2002, the Panchayat authorities with the police help removed the shop. The petitioners had no role in the removal of the shop that took place on 11-11-2002. Annexure-V is the letter of the Secretary of the Grama

Panchayat mentioning that the above shop was removed by the Panchayat with the police aid and that the same has been kept in the Panchayat office compound. Hence, according to the petitioners, the complaint filed is an abuse of the process of the court and liable to be set aside.

3. In the circumstances and in view of the facts revealed from Annexures-II to V documents produced, it is evident that the complaint filed is a false one and meant only to harass the petitioners.

In the result, the proceedings in C.C.No.50/2003 in the file of the Judicial First Class Magistrate Court, Ramankary, Alappuzha is herewith quashed. The Crl.M.C.is allowed.

K.R.UDAYABHANU, JUDGE

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